IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 27126 of 2006(D)

PETITIONER:

M/S.SUNIL STEELS MELAMPARAMPIL,
MELAMPARAMPIL BUILDINGS, PODIYADI P.O.,
THIRUVALLA, REPRESENTED BY ITS PARTNER,
SUNIL GEORGE OMMEN.

BY ADV. SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN
SRI.C.N.SREEKUMAR
SRI.P.R.AJITHKUMAR

RESPONDENTS:

---

1. THE SALES TAX OFFICER, THIRUVALLA.

2. THE INTELLIGENCE INSPECTOR,
INTELLIGENCE SQUAD NO.V, COMMERCIAL TAXES,
PALAKKAD.

3. THE COMMISSIONER OF COMMERCIAL TAXES,
COMMISSIONERATE OF COMMERCIAL TAXES,
PUBLIC UTILITY BUILDING,
OPP.MUSEUM, THIRUVANANTHAPURAM.

4. THE STATE OF KERALA, REPRESENTED BY ITS
CHIEF SECRETARY, GOVT. OF KERALA,TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE INVOICE NO.120 DTD.5.10.2006.
EXT.P2	TRUE COPY OF THE NOTICE DTD.7.10.2006.
EXT.P3	TRUE COPY OF NTOICE DTD.7.10.2006.
EXT.P4	TRUE COPY OF REPLY DTD.7.10.2006.
EXT.P5	TRUE COPY OF RELEVANT PAGE OF PWD SCHEDULE OF RATES.
EXT.P6	TRUE COPY OF QUOTATION DTD.20.10.2006 SUBMITTED BY SUN MARBLES, PALAKKAD.
EXT.P6A	TRUE COPY OF QUOTATION DTD.NIL SUBMITTED BY RAKESH MARBLE & GRANITE PALAKKAD.
EXT.P7	TRUE COPY OF THE QUOTATION DTD.20.10.2006 SUBMITTED BY KARIALI GRANITES, MARADU.
EXT.P7A	TRUE COPY OF QUOTATION DTD.20.10.2006 SUBMITTED BY COCHIN MARBLE, MARADU.
EXT.P8	TRUE COPY OF NTOICE DTD.27.12.2006.
EXT.P9	TRUE COPY OF OBJECTION DTD.29.12.2006.
EXT.P10	TRUE COPY OF ORDER DTD.30.12.2006.
EXT.P11	TRUE COPY OF DEMAND DRAFT DTD.11.1.2007.

RESPONDENT'S EXHIBITS:

ANN.A	MEASUREMENT OF SLABS.

TRUE COPY

P.A.TO JUDGE

K.BALAKRISHNAN NAIR,J

W.P.(C)NO.27126 of 2006

Dated this the 19th day of July, 2007

JUDGMENT

The petitioner is a registered dealer under the KVAT Act dealing in Marble, Granite Slabs and Tiles. When granite slabs were transported by the petitioner from outside the State he was served with Ext.P2 notice demanding entry tax. He was also served with Ext.P3 notice under Section 47(2) of the KVAT Act. The value of the goods were shown highly inflated, submits the petitioner. Therefore this writ petition was filed praying inter alia for a direction to quash those notices and release the goods covered by them. The petitioner also prayed that the State may be directed to purchase the goods as provided under Section 45 of the KVAT Act. Pursuant to the interim order of this Court the goods were purchased by the State but the petitioner has some dispute regarding the computation of the price paid. The respondents computed the invoice value and arrived at the price by adding 10% of it. According to the petitioner, the addition of 10% should be made to the total amount arrived at by adding the price shown in the invoices and the incidental charges incurred in

transporting the goods up to the check post. Since the computation has not been properly done, the amount paid is low by about Rs.10,000/=. So the petitioner prays the respondents may be directed to take into account the incidental charges expended by it for the purpose of computation of the price of the goods purchased.

2. Heard.

3. The above dispute raised is a dispute concerning the fixation of the price of the goods purchased. This Court cannot decide whether the claim of the petitioner regarding the incidental charges is correct or not. So the relief sought cannot be granted under Article 226 of the Constitution of India. Accordingly the writ petition is dismissed. If the petitioner has got any remedy under the statute, dismissal of the writ petition will not affect its right to invoke the same.

K.BALAKRISHNAN NAIR,
JUDGE

cs